

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-051861

12/22/2010

HONORABLE ROBERT BUDOFF

CLERK OF THE COURT
L. Carlson
Deputy

AMERICAN NATIONAL BANK

FREDERICK E DAVIDSON

v.

JOHN NICHOLAS VATISTAS, et al.

COLIN F CAMPBELL

JEFFREY B MESSING
DENNIS I WILENCHIK

MINUTE ENTRY

On November 9, 2010, Defendants Madia filed a Motion to Dismiss.

Plaintiff's Response was filed November 29, 2010.

Defendants' Reply was filed December 13, 2010.

The First Amended Complaint, which brought Defendants Madia into this action, was filed September 20, 2010. The claim against Madia, entitled "Fifth Claim for Relief (Aiding and Abetting)" alleges that Madia aided and abetted Defendants Vatistas in submitting false or incorrect information or making misrepresentations to Plaintiff regarding Vatistas' financial condition.

Defendants' Motion to Dismiss alleges that Plaintiff's claim against Madia is barred by the 2-year statute of limitations that applies to negligent misrepresentations, and that the claim against Madia is based upon insufficient allegations that give rise to liability.

The matters presented have been considered by the Court.

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Madias' Motion to Dismiss is granted.

The Court finds that Plaintiff's claim against Madia is barred by the statute of limitations. The Court determines that this is a negligent misrepresentations claim to which a 2-year statute of limitations applies. A.R.S. 12-542.

The Court rejects Plaintiff's contention that the aiding and abetting statute of limitations, or the fraud statute of limitations, three years in each case, are applicable to this situation before the Court.